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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,206	08/24/2001	James M. Gill	22725-05869	3572
758	7590	04/06/2005	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,206

Applicant(s)

GILL ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-29 and 31-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-29 and 31-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 4-7, 9, 11-13, 16, 17, 19-22, 24, 26-28, 31, 32, 34-37, 39, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik (5,661,653) in view of Chou et al. (6,035,289).

4. With respect to Claims 1, 16 and 31: Kulik discloses the use of a rate sheet input module (25) for accepting rate sheet information (see Figure 2), a custom rates processor (31) with functions as a rate sheet analyzer module and together with a rates manager functions also a rule generator (25 and 31, with corresponding detailed descriptions in Columns 5 and 6) and that interfaces with a template storage module (33).

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5. Kulik however fails to disclose the analyzing of the rate sheets being done heuristically. Chou discloses using price/cost heuristics (see abstract) in the method of trading cargo, which includes calculating shipping and uses a heuristic analytic approach to compare and match bids (Column 6, lines 22-33). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the rate sheet analyzing method of Kulik, to include a heuristic approach of analyzing costs, as disclosed by Chou in order to enable the rate sheet analyzer to solve problems in a reasonable amount of time, in regards to the matching process.

(See Chou, columns 2 and 10)

6. With respect to Claims 2, 17 and 32: Kulik discloses some examples of the rate tables, which the examiner considers to be spreadsheet format (see columns 7 and 8).

7. With respect to Claims 4, 19 and 34: Kulik discloses the user interfacing with the system to define custom rate information (Column 6, lines 21-29).

8. With respect to Claims 5-7, 20-22 and 35-37: Kulik discloses the user can define such things as class, and weight, in a template for determining the rate (column 6, lines 20-40, Tables 1-3). The examiner considers this to be a keyword, that signifies the type of data (i.e. class or weight).

9. With respect to Claims 9, 24 and 39: Kulik discloses all the applications are run on one machine, the PARAGON Mail Processor, therefore the template module and the rate analyzer module being local to each other.

10. With respect to Claims 11, 13, 26, 28, 41 and 43: See reference numerals 21 and 23.

11. With respect to Claims 12, 27 and 42: Kulik discloses that the rates can be analyzed using no template and where there is a default rate table used (See Column 6, lines 3-9).

12. Claims 10, 25, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik and Chou et al.

13. With respect to Claims 10, 25 and 40: Kulik discloses the claimed invention except for the template storage module being remote from the rate sheet analyzer module. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have to template storage module be remote from the rate sheet analyzer module, since it has been held that the location of parts, whether it be local or remote, involves only routine skill in the art.

14. Claims 3, 8, 18, 23, 33, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik and Chou et al. in further view of Mattioli, Jr. et al. (6,286,009).

15. With respect to Claims 3, 18 and 33: Kulik and Chou, as disclosed above for Claim 1, discloses the use of customized rate tables by class, but fails to disclose the rate tables including zones. It is old and well known in the art that rate calculations for shipping, include such parameters as zone (for example international shipping is always higher than shipping within the United States. Mattioli shows that the zone is commonly included in a rate calculation (column 3, lines 32-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to have the rate calculation and rate tables of Kulik, include the zone, as disclosed by Mattioli, as specified in claim 3.

16. With respect to Claims 8, 23 and 38: As disclosed above for Claim 1, Kulik discloses a rate table system, but fails to disclose the reporting of potential errors. Mattioli discloses that if input parameters are wrong, an error message occurs (column 14, lines 40-67). It would have

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been obvious to one having ordinary skill in the art at the time the invention was made to modify Kulik, to include the notification of an error feature, as disclosed by Mattioli, in order to notify the user an error has occurred so a proper input can then be entered and the calculation can be performed. (See Mattioli, column 14).

17. Claims 14, 29 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulik and Chou and further in view of Schwartz et al. (6,462,286).

18. Kulik and Chou, as disclosed above for Claim 1, discloses the claimed invention, but fails to disclose the use of an accessorial charge module and where the rates are calculate responsive to the accessorial charge. Schwartz discloses the use of a rate calculation module that has an accessorial charge module (or a button that associate an accessorial charge with the rate) that calculate the rate for added features such as next day air, second day air or insurance, and even has a special charges button (See Figures 13, 19, 20 and 25, and Column 13, lines 17-58, Column 16, lines 12-52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Kulik, to include the accessorial charge feature/module, of Schwartz, in order to offer a shipping/freight customer special services such as insurance, with rates associated with them for various carriers. (See Schwartz, Column 2 and 16)

Response to Arguments

19. Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection. The rejections now take into effect the added limitation of the heuristically analyzing.

Conclusion

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

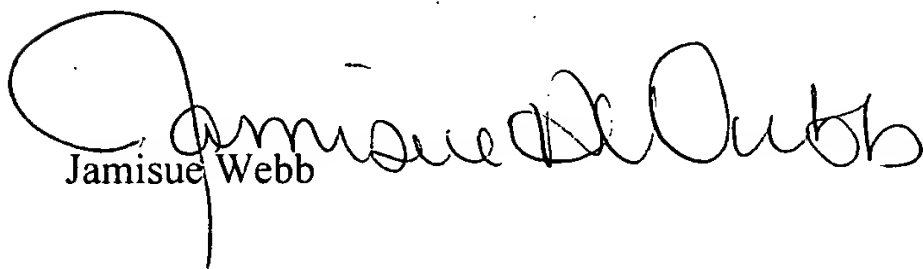
21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lubenow et al. (5,715,398) also discloses the use of heuristics for comparison purposes.

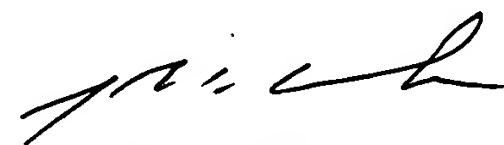
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579 until April 13, 2005, after which is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702 until April 13, 2005, after which is (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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